

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

OLIVIA Y., *et al.*

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251

HALEY BARBOUR, as Governor of the State of Mississippi, *et al.*

DEFENDANTS

**PLAINTIFFS' UNOPPOSED MOTION FOR SUBSTITUTION OF RULE 17(c) NEXT
FRIEND FOR NAMED PLAINTIFF JAMISON J.**

Plaintiffs respectfully request that Chris Powell, Esquire, be substituted as next friend to represent Named Plaintiff Jamison J., pursuant to Rule 17(c) of the Federal Rules of Civil Procedure, to replace Jamison's recently deceased next friend. Defendants do not oppose this Motion.

Rule 17(c) states that "[a]n infant or incompetent person who does not have a duly appointed representative may sue by a next friend or by a *guardian ad litem*." Fed. R. Civ. P. 17(c) (emphasis added). Mrs. Clara Lewis, who served as Jamison J.'s next friend, passed away in December 2006, and Jamison, age 19, remains a minor disqualified from representing himself. *See* Fed. R. Civ. P. 17(b) ("The capacity of an individual . . . to sue or be sued shall be determined by the law of the individual's domicile."); Miss. Code Ann. §§ 1-3-21, 1-3-27 ("The term[s] 'infant' [and 'minor'] . . . shall include any person . . . under twenty-one years of age.").

Mr. Powell, an attorney in private practice, is the current *guardian ad litem* appointed to represent Jamison J. in the Mississippi state courts. Mr. Powell was appointed to represent Jamison by the Bolivar County Mississippi Youth Court on June 8, 2005. As Jamison's court-

appointed *guardian ad litem*, Mr. Powell has represented Jamison's interests before both the Youth and the Chancery Courts of Mississippi. His representation of Jamison in this matter is specifically authorized by Rule 17(c). In addressing matters pertaining to the appointment of next friends, the Court is to exercise its discretion so as to ensure the protection of a minor's interest in the litigation. *See Gaddis v. United States*, 381 F.3d 444, 453 (5th Cir. 2004). Having Mr. Powell, who has represented Jamison as his *guardian ad litem* for the past year and a half, assume the role of Jamison's Rule 17(c) next friend will promote the protection of Jamison's interest in this litigation.

Wherefore, Plaintiffs respectfully request that Chris Powell, Esquire, 123 South Court Street, Post Office Drawer 1680, Cleveland, Mississippi, 38732, be substituted as next friend for Named Plaintiff Jamison J., pursuant to Rule 17(c).

RESPECTFULLY SUBMITTED, this the 24th day of January, 2007.

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2007 I electronically filed the foregoing with the Court using the ECF system, which sent notification of such filing to the following:

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